

FIRST REGULAR SESSION

# SENATE BILL NO. 530

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GOODMAN.

Read 1st time February 26, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

2238S.011

## AN ACT

To repeal sections 210.145, 210.150, and 210.152, RSMo, and to enact in lieu thereof three new sections relating to child abuse investigations, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 210.145, 210.150, and 210.152, RSMo, are repealed  
2 and three new sections enacted in lieu thereof, to be known as sections 210.145,  
3 210.150, and 210.152, to read as follows:

210.145. 1. The division shall develop protocols which give priority to:

2 (1) Ensuring the well-being and safety of the child in instances where  
3 child abuse or neglect has been alleged;

4 (2) Promoting the preservation and reunification of children and families  
5 consistent with state and federal law;

6 (3) Providing due process for those accused of child abuse or neglect; and

7 (4) Maintaining an information system operating at all times, capable of  
8 receiving and maintaining reports. This information system shall have the ability  
9 to receive reports over a single, statewide toll-free number. Such information  
10 system shall maintain the results of all investigations, family assessments and  
11 services, and other relevant information.

12 2. The division shall utilize structured decision-making protocols for  
13 classification purposes of all child abuse and neglect reports. The protocols  
14 developed by the division shall give priority to ensuring the well-being and safety  
15 of the child. All child abuse and neglect reports shall be initiated within  
16 twenty-four hours and shall be classified based upon the reported risk and injury  
17 to the child. The division shall promulgate rules regarding the structured

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18 decision-making protocols to be utilized for all child abuse and neglect reports.

19           3. Upon receipt of a report, the division shall determine if the report  
20 merits investigation, including reports which if true would constitute a suspected  
21 violation of any of the following: section 565.020, 565.021, 565.023, 565.024, or  
22 565.050, RSMo, if the victim is a child less than eighteen years of age, section  
23 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age,  
24 or other crimes under chapter 566, RSMo, if the victim is a child less than  
25 eighteen years of age and the perpetrator is twenty-one years of age or older,  
26 section 567.050, RSMo, if the victim is a child less than eighteen years of age,  
27 section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo,  
28 section 573.025, 573.035, 573.037, or 573.040, RSMo, or an attempt to commit any  
29 such crimes. The division shall immediately communicate all reports that merit  
30 investigation to its appropriate local office and any relevant information as may  
31 be contained in the information system. The local division staff shall determine,  
32 through the use of protocols developed by the division, whether an investigation  
33 or the family assessment and services approach should be used to respond to the  
34 allegation. The protocols developed by the division shall give priority to ensuring  
35 the well-being and safety of the child.

36           4. The local office shall contact the appropriate law enforcement agency  
37 immediately upon receipt of a report which division personnel determine merits  
38 an investigation and provide such agency with a detailed description of the report  
39 received. In such cases the local division office shall request the assistance of the  
40 local law enforcement agency in all aspects of the investigation of the  
41 complaint. The appropriate law enforcement agency shall either assist the  
42 division in the investigation or provide the division, within twenty-four hours, an  
43 explanation in writing detailing the reasons why it is unable to assist.

44           5. The local office of the division shall cause an investigation or family  
45 assessment and services approach to be initiated in accordance with the protocols  
46 established in subsection 2 of this section, except in cases where the sole basis for  
47 the report is educational neglect. If the report indicates that educational neglect  
48 is the only complaint and there is no suspicion of other neglect or abuse, the  
49 investigation shall be initiated within seventy-two hours of receipt of the report.  
50 If the report indicates the child is in danger of serious physical harm or threat  
51 to life, an investigation shall include direct observation of the subject child within  
52 twenty-four hours of the receipt of the report. Local law enforcement shall take  
53 all necessary steps to facilitate such direct observation. If the parents of the

54 child are not the alleged abusers, a parent of the child must be notified prior to  
55 the child being interviewed by the division. If the abuse is alleged to have  
56 occurred in a school or child-care facility the division shall not meet with the  
57 child in any school building or child-care facility building where abuse of such  
58 child is alleged to have occurred. When the child is reported absent from the  
59 residence, the location and the well-being of the child shall be verified. For  
60 purposes of this subsection, child-care facility shall have the same meaning as  
61 such term is defined in section 210.201.

62           6. The director of the division shall name at least one chief investigator  
63 for each local division office, who shall direct the division response on any case  
64 involving a second or subsequent incident regarding the same subject child or  
65 perpetrator. The duties of a chief investigator shall include verification of direct  
66 observation of the subject child by the division and shall ensure information  
67 regarding the status of an investigation is provided to the public school district  
68 liaison. The public school district liaison shall develop protocol in conjunction  
69 with the chief investigator to ensure information regarding an investigation is  
70 shared with appropriate school personnel. The superintendent of each school  
71 district shall designate a specific person or persons to act as the public school  
72 district liaison. Should the subject child attend a nonpublic school the chief  
73 investigator shall notify the school principal of the investigation. Upon  
74 notification of an investigation, all information received by the public school  
75 district liaison or the school shall be subject to the provisions of the federal  
76 Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g,  
77 and federal rule 34 C.F.R., Part 99.

78           7. The investigation shall include but not be limited to the nature, extent,  
79 and cause of the abuse or neglect; the identity and age of the person responsible  
80 for the abuse or neglect; the names and conditions of other children in the home,  
81 if any; the home environment and the relationship of the subject child to the  
82 parents or other persons responsible for the child's care; any indication of  
83 incidents of physical violence against any other household or family member; and  
84 other pertinent data.

85           8. When a report has been made by a person required to report under  
86 section 210.115, the division shall contact the person who made such report  
87 within forty-eight hours of the receipt of the report in order to ensure that full  
88 information has been received and to obtain any additional information or  
89 medical records, or both, that may be pertinent.

90           9. Upon completion of the investigation, if the division suspects that the  
91 report was made maliciously or for the purpose of harassment, the division shall  
92 refer the report and any evidence of malice or harassment to the local prosecuting  
93 or circuit attorney.

94           10. Multidisciplinary teams shall be used whenever conducting the  
95 investigation as determined by the division in conjunction with local law  
96 enforcement. Multidisciplinary teams shall be used in providing protective or  
97 preventive social services, including the services of law enforcement, a liaison of  
98 the local public school, the juvenile officer, the juvenile court, and other agencies,  
99 both public and private.

100           11. For all family support team meetings involving an alleged victim of  
101 child abuse or neglect, the parents, legal counsel for the parents, foster parents,  
102 the legal guardian or custodian of the child, the guardian ad litem for the child,  
103 and the volunteer advocate for the child shall be provided notice and be permitted  
104 to attend all such meetings. Family members, other than alleged perpetrators,  
105 or other community informal or formal service providers that provide significant  
106 support to the child and other individuals may also be invited at the discretion  
107 of the parents of the child. In addition, the parents, the legal counsel for the  
108 parents, the legal guardian or custodian and the foster parents may request that  
109 other individuals, other than alleged perpetrators, be permitted to attend such  
110 team meetings. Once a person is provided notice of or attends such team  
111 meetings, the division or the convenor of the meeting shall provide such persons  
112 with notice of all such subsequent meetings involving the child. Families may  
113 determine whether individuals invited at their discretion shall continue to be  
114 invited.

115           12. If the appropriate local division personnel determine after an  
116 investigation has begun that completing an investigation is not appropriate, the  
117 division shall conduct a family assessment and services approach. The division  
118 shall provide written notification to local law enforcement prior to terminating  
119 any investigative process. The reason for the termination of the investigative  
120 process shall be documented in the record of the division and the written  
121 notification submitted to local law enforcement. Such notification shall not  
122 preclude nor prevent any investigation by law enforcement.

123           13. If the appropriate local division personnel determines to use a family  
124 assessment and services approach, the division shall:

125           (1) Assess any service needs of the family. The assessment of risk and

126 service needs shall be based on information gathered from the family and other  
127 sources;

128 (2) Provide services which are voluntary and time-limited unless it is  
129 determined by the division based on the assessment of risk that there will be a  
130 high risk of abuse or neglect if the family refuses to accept the services. The  
131 division shall identify services for families where it is determined that the child  
132 is at high risk of future abuse or neglect. The division shall thoroughly document  
133 in the record its attempt to provide voluntary services and the reasons these  
134 services are important to reduce the risk of future abuse or neglect to the child. If  
135 the family continues to refuse voluntary services or the child needs to be  
136 protected, the division may commence an investigation;

137 (3) Commence an immediate investigation if at any time during the family  
138 assessment and services approach the division determines that an investigation,  
139 as delineated in sections 210.109 to 210.183, is required. The division staff who  
140 have conducted the assessment may remain involved in the provision of services  
141 to the child and family;

142 (4) Document at the time the case is closed, the outcome of the family  
143 assessment and services approach, any service provided and the removal of risk  
144 to the child, if it existed.

145 14. Within [thirty] **forty-five** days of an oral report of abuse or neglect,  
146 the local office shall update the information in the information system. The  
147 information system shall contain, at a minimum, the determination made by the  
148 division as a result of the investigation, identifying information on the subjects  
149 of the report, those responsible for the care of the subject child and other relevant  
150 dispositional information. The division shall complete all investigations within  
151 thirty days, unless good cause for the failure to complete the investigation is  
152 documented in the information system. If a child involved in a pending  
153 investigation dies, the investigation shall remain open until the division's  
154 investigation surrounding the death is completed. If the investigation is not  
155 completed within [thirty] **forty-five** days, the information system shall be  
156 updated at regular intervals and upon the completion of the investigation. The  
157 information in the information system shall be updated to reflect any subsequent  
158 findings, including any changes to the findings based on an administrative or  
159 judicial hearing on the matter.

160 15. **The division shall complete all investigations within forty-**  
161 **five days. If the investigation is not completed in forty-five days, the**

162 division shall promptly notify all parties to the investigation of its  
163 proposed extension and give reasons why the extension is  
164 necessary. Any party may object to the extension by filing an objection  
165 with the attorney general's office of the child advocate, which shall rule  
166 on the objection within ten working days, and shall grant the extension  
167 if it finds that there is good cause to do so. If the extension is granted,  
168 the division shall set a new deadline for completion of the investigation  
169 which may only be extended by the division applying in writing with  
170 written notice to all parties, before the deadline expires, for its further  
171 extension for good cause shown. Should the extension not be granted,  
172 then the investigation will be deemed completed ten working days after  
173 the date the attorney general denies the extension. Where the division  
174 seeks a single extension on the basis that the division is awaiting a  
175 report from law enforcement, a medical report, or information from  
176 another state, no objection to such extension shall be allowed, except  
177 for an objection asserting that the division's grounds for extension are  
178 false or have been contrived with the reporting entity or  
179 state. Following the investigation, the division shall make a  
180 preliminary determination by a preponderance of evidence as to  
181 whether the alleged perpetrator has committed child abuse or neglect,  
182 and follow the procedures outlined in section 210.152.

183       16. No determination of the division shall be entered in the  
184 central registry until:

185           (1) The alleged perpetrator fails to request review by the child  
186 abuse and neglect review board or trial de novo in the circuit court  
187 within the thirty-day period provided in subsection 3 of section 210.152;  
188 or

189           (2) A determination is made by the child abuse and neglect  
190 review board that the alleged perpetrator has committed child abuse  
191 or neglect, subject to subdivisions (2) and (3) of subsection 5 of section  
192 210.152.

193       17. A person required to report under section 210.115 to the division and  
194 any person making a report of child abuse or neglect made to the division which  
195 is not made anonymously shall be informed by the division of his or her right to  
196 obtain information concerning the disposition of his or her report. Such person  
197 shall receive, from the local office, if requested, information on the general  
198 disposition of his or her report. Such person may receive, if requested, findings

199 and information concerning the case. Such release of information shall be at the  
200 discretion of the director based upon a review of the reporter's ability to assist in  
201 protecting the child or the potential harm to the child or other children within the  
202 family. The local office shall respond to the request within forty-five days. The  
203 findings shall be made available to the reporter within five days of the outcome  
204 of the investigation. If the report is determined to be unsubstantiated, the  
205 reporter may request that the report be referred by the division to the office of  
206 child advocate for children's protection and services established in sections 37.700  
207 to 37.730, RSMo. Upon request by a reporter under this subsection, the division  
208 shall refer an unsubstantiated report of child abuse or neglect to the office of  
209 child advocate for children's protection and services.

210 [16.] 18. In any judicial proceeding involving the custody of a child the  
211 fact that a report may have been made pursuant to sections 210.109 to 210.183  
212 shall not be admissible. However:

213 (1) Nothing in this subsection shall prohibit the introduction of evidence  
214 from independent sources to support the allegations that may have caused a  
215 report to have been made; and

216 (2) The court may on its own motion, or shall if requested by a party to  
217 the proceeding, make an inquiry not on the record with the children's division to  
218 determine if such a report has been made. If a report has been made, the court  
219 may stay the custody proceeding until the children's division completes its  
220 investigation.

221 [17.] 19. In any judicial proceeding involving the custody of a child where  
222 the court determines that the child is in need of services pursuant to subdivision  
223 (d) of subsection 1 of section 211.031, RSMo, and has taken jurisdiction, the  
224 child's parent, guardian or custodian shall not be entered into the registry.

225 [18.] 20. The children's division is hereby granted the authority to  
226 promulgate rules and regulations pursuant to the provisions of section 207.021,  
227 RSMo, and chapter 536, RSMo, to carry out the provisions of sections 210.109 to  
228 210.183.

229 [19.] 21. Any rule or portion of a rule, as that term is defined in section  
230 536.010, RSMo, that is created under the authority delegated in this section shall  
231 become effective only if it complies with and is subject to all of the provisions of  
232 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and  
233 chapter 536, RSMo, are nonseverable and if any of the powers vested with the  
234 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective

235 date or to disapprove and annul a rule are subsequently held unconstitutional,  
236 then the grant of rulemaking authority and any rule proposed or adopted after  
237 August 28, 2000, shall be invalid and void.

210.150. 1. The children's division shall ensure the confidentiality of all  
2 reports and records made pursuant to sections 210.109 to 210.183 and maintained  
3 by the division, its local offices, the central registry, and other appropriate  
4 persons, officials, and institutions pursuant to sections 210.109 to 210.183. To  
5 protect the rights of the family and the child named in the report as a victim, the  
6 children's division shall establish guidelines which will ensure that any disclosure  
7 of information concerning the abuse and neglect involving that child is made only  
8 to persons or agencies that have a right to such information. The division may  
9 require persons to make written requests for access to records maintained by the  
10 division. The division shall only release information to persons who have a right  
11 to such information. The division shall notify persons receiving information  
12 pursuant to subdivisions (2), (7), (8) and (9) of subsection 2 of this section of the  
13 purpose for which the information is released and of the penalties for  
14 unauthorized dissemination of information. Such information shall be used only  
15 for the purpose for which the information is released.

16 2. Only the following persons shall have access to investigation records  
17 contained in the central registry:

18 (1) Appropriate federal, state or local criminal justice agency personnel,  
19 or any agent of such entity, with a need for such information under the law to  
20 protect children from abuse or neglect;

21 (2) A physician or a designated agent who reasonably believes that the  
22 child being examined may be abused or neglected;

23 (3) Appropriate staff of the division and of its local offices, including  
24 interdisciplinary teams which are formed to assist the division in investigation,  
25 evaluation and treatment of child abuse and neglect cases or a multidisciplinary  
26 provider of professional treatment services for a child referred to the provider;

27 (4) Any child named in the report as a victim, or a legal representative,  
28 or the parent, if not the alleged perpetrator, or guardian of such person when  
29 such person is a minor, or is mentally ill or otherwise incompetent, but the names  
30 of reporters shall not be furnished to persons in this category. Prior to the  
31 release of any identifying information, the division shall determine if the release  
32 of such identifying information may place a person's life or safety in danger. If  
33 the division makes the determination that a person's life or safety may be in

34 danger, the identifying information shall not be released. The division shall  
35 provide a method for confirming or certifying that a designee is acting on behalf  
36 of a subject;

37 (5) Any alleged perpetrator named in the report, but the names of  
38 reporters shall not be furnished to persons in this category. Prior to the release  
39 of any identifying information, the division shall determine if the release of such  
40 identifying information may place a person's life or safety in danger. If the  
41 division makes the determination that a person's life or safety may be in danger,  
42 the identifying information shall not be released. However, the investigation  
43 reports will not be released to any alleged perpetrator with pending criminal  
44 charges arising out of the facts and circumstances named in the investigation  
45 records until, **whichever of the following events occurs first**, an indictment  
46 is returned [or], an information filed, **or one year has passed since the**  
47 **division notified the prosecuting attorney in the jurisdiction where the**  
48 **acts forming the basis of the report are alleged to have occurred and**  
49 **the intent by the alleged perpetrator to seek further review is in**  
50 **writing. The prosecuting attorney may petition the circuit court of**  
51 **such jurisdiction to extend the one year period for good cause shown,**  
52 **for such time as the court may determine is necessary to complete the**  
53 **investigation and to file any appropriate charges;**

54 (6) A grand jury, juvenile officer, prosecuting attorney, law enforcement  
55 officer involved in the investigation of child abuse or neglect, juvenile court or  
56 other court conducting abuse or neglect or child protective proceedings or child  
57 custody proceedings, and other federal, state and local government entities, or  
58 any agent of such entity, with a need for such information in order to carry out  
59 its responsibilities under the law to protect children from abuse or neglect;

60 (7) Any person engaged in a bona fide research purpose, with the  
61 permission of the director; provided, however, that no information identifying the  
62 child named in the report as a victim or the reporters shall be made available to  
63 the researcher, unless the identifying information is essential to the research or  
64 evaluation and the child named in the report as a victim or, if the child is less  
65 than eighteen years of age, through the child's parent, or guardian provides  
66 written permission;

67 (8) Any child-care facility; child-placing agency; residential-care facility,  
68 including group homes; juvenile courts; public or private elementary schools;  
69 public or private secondary schools; or any other public or private agency

70 exercising temporary supervision over a child or providing or having care or  
71 custody of a child who may request an examination of the central registry from  
72 the division for all employees and volunteers or prospective employees and  
73 volunteers, who do or will provide services or care to children. Any agency or  
74 business recognized by the division or business which provides training and  
75 places or recommends people for employment or for volunteers in positions where  
76 they will provide services or care to children may request the division to provide  
77 an examination of the central registry. Such agency or business shall provide  
78 verification of its status as a recognized agency. Requests for examinations shall  
79 be made to the division director or the director's designee in writing by the chief  
80 administrative officer of the above homes, centers, public and private elementary  
81 schools, public and private secondary schools, agencies, or courts. The division  
82 shall respond in writing to that officer. The response shall include information  
83 pertaining to the nature and disposition of any report or reports of abuse or  
84 neglect revealed by the examination of the central registry. This response shall  
85 not include any identifying information regarding any person other than the  
86 alleged perpetrator of the abuse or neglect;

87 (9) Any parent or legal guardian who inquires about a child abuse or  
88 neglect report involving a specific person or child-care facility who does or may  
89 provide services or care to a child of the person requesting the  
90 information. Request for examinations shall be made to the division director or  
91 the director's designee, in writing, by the parent or legal guardian of the child  
92 and shall be accompanied with a signed and notarized release form from the  
93 person who does or may provide care or services to the child. The notarized  
94 release form shall include the full name, date of birth and Social Security number  
95 of the person who does or may provide care or services to a child. The response  
96 shall include information pertaining to the nature and disposition of any report  
97 or reports of abuse or neglect revealed by the examination of the central  
98 registry. This response shall not include any identifying information regarding  
99 any person other than the alleged perpetrator of the abuse or neglect. The  
100 response shall be given within ten working days of the time it was received by the  
101 division;

102 (10) Any person who inquires about a child abuse or neglect report  
103 involving a specific child-care facility, child-placing agency, residential-care  
104 facility, public and private elementary schools, public and private secondary  
105 schools, juvenile court or other state agency. The information available to these

106 persons is limited to the nature and disposition of any report contained in the  
107 central registry and shall not include any identifying information pertaining to  
108 any person mentioned in the report;

109 (11) Any state agency acting pursuant to statutes regarding a license of  
110 any person, institution, or agency which provides care for or services to children;

111 (12) Any child fatality review panel established pursuant to section  
112 210.192 or any state child fatality review panel established pursuant to section  
113 210.195;

114 (13) Any person who is a tenure-track or full-time research faculty  
115 member at an accredited institution of higher education engaged in scholarly  
116 research, with the permission of the director. Prior to the release of any  
117 identifying information, the director shall require the researcher to present a plan  
118 for maintaining the confidentiality of the identifying information. The researcher  
119 shall be prohibited from releasing the identifying information of individual cases.

120 3. Only the following persons shall have access to records maintained by  
121 the division pursuant to section 210.152 for which the division has received a  
122 report of child abuse and neglect and which the division has determined that  
123 there is insufficient evidence or in which the division proceeded with the family  
124 assessment and services approach:

125 (1) Appropriate staff of the division;

126 (2) Any child named in the report as a victim, or a legal representative,  
127 or the parent or guardian of such person when such person is a minor, or is  
128 mentally ill or otherwise incompetent. The names or other identifying  
129 information of reporters shall not be furnished to persons in this category. Prior  
130 to the release of any identifying information, the division shall determine if the  
131 release of such identifying information may place a person's life or safety in  
132 danger. If the division makes the determination that a person's life or safety may  
133 be in danger, the identifying information shall not be released. The division shall  
134 provide for a method for confirming or certifying that a designee is acting on  
135 behalf of a subject;

136 (3) Any alleged perpetrator named in the report, but the names of  
137 reporters shall not be furnished to persons in this category. Prior to the release  
138 of any identifying information, the division shall determine if the release of such  
139 identifying information may place a person's life or safety in danger. If the  
140 division makes the determination that a person's life or safety may be in danger,  
141 the identifying information shall not be released. However, the investigation

142 reports will not be released to any alleged perpetrator with pending criminal  
143 charges arising out of the facts and circumstances named in the investigation  
144 records until, **whichever of the following events occurs first**, an indictment  
145 is returned [or], an information filed **or, one year has passed since the**  
146 **division notified the prosecuting attorney in the jurisdiction where the**  
147 **acts forming the basis of the report are alleged to have occurred and**  
148 **the intent by the alleged perpetrator to seek further review is in**  
149 **writing. The prosecuting attorney may petition the circuit court of**  
150 **such jurisdiction to extend the one year period for good cause shown,**  
151 **for such time as the court may determine is necessary to complete the**  
152 **investigation and to file any appropriate charges;**

153 (4) Any child fatality review panel established pursuant to section 210.192  
154 or any state child fatality review panel established pursuant to section 210.195;

155 (5) Appropriate criminal justice agency personnel or juvenile officer;

156 (6) Multidisciplinary agency or individual including a physician or  
157 physician's designee who is providing services to the child or family, with the  
158 consent of the parent or guardian of the child or legal representative of the child;

159 (7) Any person engaged in bona fide research purpose, with the  
160 permission of the director; provided, however, that no information identifying the  
161 subjects of the reports or the reporters shall be made available to the researcher,  
162 unless the identifying information is essential to the research or evaluation and  
163 the subject, or if a child, through the child's parent or guardian, provides written  
164 permission.

165 4. Any person who knowingly violates the provisions of this section, or  
166 who permits or encourages the unauthorized dissemination of information  
167 contained in the information system or the central registry and in reports and  
168 records made pursuant to sections 210.109 to 210.183, shall be guilty of a class  
169 A misdemeanor.

170 5. Nothing in this section shall preclude the release of findings or  
171 information about cases which resulted in a child fatality or near fatality. Such  
172 release is at the sole discretion of the director of the department of social services,  
173 based upon a review of the potential harm to other children within the immediate  
174 family.

210.152. 1. All identifying information, including telephone reports  
2 reported pursuant to section 210.145, relating to reports of abuse or neglect  
3 received by the division shall be retained by the division and removed from the

4 records of the division as follows:

5 (1) For investigation reports contained in the central registry, identifying  
6 information shall be retained by the division;

7 (2) (a) For investigation reports initiated against a person required to  
8 report pursuant to section 210.115, where insufficient evidence of abuse or neglect  
9 is found by the division and where the division determines the allegation of abuse  
10 or neglect was made maliciously, for purposes of harassment or in retaliation for  
11 the filing of a report by a person required to report, identifying information shall  
12 be expunged by the division within forty-five days from the conclusion of the  
13 investigation;

14 (b) For investigation reports, where insufficient evidence of abuse or  
15 neglect is found by the division and where the division determines the allegation  
16 of abuse or neglect was made maliciously, for purposes of harassment or in  
17 retaliation for the filing of a report, identifying information shall be expunged by  
18 the division within forty-five days from the conclusion of the investigation;

19 (c) For investigation reports initiated by a person required to report under  
20 section 210.115, where insufficient evidence of abuse or neglect is found by the  
21 division, identifying information shall be retained for five years from the  
22 conclusion of the investigation. For all other investigation reports where  
23 insufficient evidence of abuse or neglect is found by the division, identifying  
24 information shall be retained for two years from the conclusion of the  
25 investigation. Such reports shall include any exculpatory evidence known by the  
26 division, including exculpatory evidence obtained after the closing of the case. At  
27 the end of such time period, the identifying information shall be removed from  
28 the records of the division and destroyed;

29 (3) For reports where the division uses the family assessment and services  
30 approach, identifying information shall be retained by the division;

31 (4) For reports in which the division is unable to locate the child alleged  
32 to have been abused or neglected, identifying information shall be retained for ten  
33 years from the date of the report and then shall be removed from the records of  
34 the division.

35 2. Within ninety days after receipt of a report of abuse or neglect that is  
36 investigated, the alleged perpetrator named in the report and the parents of the  
37 child named in the report, if the alleged perpetrator is not a parent, shall be  
38 notified in writing of any determination made by the division based on the  
39 investigation. The notice shall advise either:

40 (1) That the division has determined by a probable cause finding prior to  
41 August 28, 2004, or by a preponderance of the evidence after August 28, 2004,  
42 that abuse or neglect exists and that the division shall retain all identifying  
43 information regarding the abuse or neglect; that such information shall remain  
44 confidential and will not be released except to law enforcement agencies,  
45 prosecuting or circuit attorneys, or as provided in section 210.150; that the  
46 alleged perpetrator has **[sixty] thirty** days from the date of receipt of the notice  
47 to seek reversal of the division's determination through a review by the child  
48 abuse and neglect review board as provided in subsection 3 of this section; or

49 (2) That the division has not made a probable cause finding or determined  
50 by a preponderance of the evidence that abuse or neglect exists.

51 3. Any person named in an investigation as a perpetrator who is  
52 aggrieved by a determination of abuse or neglect by the division as provided in  
53 this section may seek an administrative review by the child abuse and neglect  
54 review board pursuant to the provisions of section 210.153. Such request for  
55 review shall be made within **[sixty] thirty** days of notification of the division's  
56 decision under this section. In those cases where criminal charges arising out of  
57 facts of the investigation are pending, the request for review shall be made within  
58 **[sixty] thirty** days from **[the court's final disposition or dismissal of the charges]**  
59 **when an indictment is returned, any information filed, dismissal of the**  
60 **charges, or after the division's release of its investigative report to the**  
61 **alleged perpetrator to this section.**

62 4. In any such action for administrative review, the child abuse and  
63 neglect review board shall sustain the division's determination if such  
64 determination was supported by evidence of probable cause prior to August 28,  
65 2004, or is supported by a preponderance of the evidence after August 28, 2004,  
66 and is not against the weight of such evidence. The child abuse and neglect  
67 review board hearing shall be closed to all persons except the parties, their  
68 attorneys and those persons providing testimony on behalf of the parties.

69 5. If the alleged perpetrator is aggrieved by the decision of the child abuse  
70 and neglect review board, the alleged perpetrator may seek de novo judicial  
71 review in the circuit court in the county in which the alleged perpetrator resides  
72 and in circuits with split venue, in the venue in which the alleged perpetrator  
73 resides, or in Cole County. If the alleged perpetrator is not a resident of the  
74 state, proper venue shall be in Cole County. The case may be assigned to the  
75 family court division where such a division has been established. The request for

76 a judicial review shall be made within [sixty] **thirty** days of notification of the  
77 decision of the child abuse and neglect review board decision. In reviewing such  
78 decisions, the circuit court shall provide the alleged perpetrator the opportunity  
79 to appear and present testimony. The alleged perpetrator may subpoena any  
80 witnesses except the alleged victim or the reporter. However, the circuit court  
81 shall have the discretion to allow the parties to submit the case upon a stipulated  
82 record.

83           6. In any such action for administrative review, the child abuse and  
84 neglect review board shall notify the child or the parent, guardian or legal  
85 representative of the child that a review has been requested.

✓

Bill

Copy